

# **VIRGINIA DEPARTMENT OF VETERANS SERVICES**

## **Rights of Requestors and Responsibilities of DVS Under the Virginia Freedom of Information Act**

### **Your FOIA Rights**

- A. You have the right to request to inspect or receive copies of public records, or both.
- B. You have the right to request that any charges for the requested records be estimated in advance.
- C. If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA.

### **Making a Request for records from DVS**

- A. You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA.

From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing. This allows you to create a record of your request. It also gives the Department of Veterans Services (DVS) a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request. However, DVS cannot refuse to respond to your FOIA request if you elect to not put it in writing.

- B. Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that DVS can identify and locate the records that you are seeking.
- C. Your request must ask for existing records or documents. FOIA gives you a right to inspect or copy records; it does not apply to a situation where you are asking general questions about the work of DVS, nor does it require DVS to create a record that does not exist.
- D. You may choose to receive electronic records in any format used by DVS in the regular course of business.

For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via e-mail or on a computer disk, or to receive a printed copy of those records

- E. If DVS has questions about your request, please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but DVS may need to discuss your request with you to ensure that it understands what records you are seeking.

**To request records from DVS, or ask questions about DVS records, please contact the DVS FOIA Responsible Officer, Stephanie Palmer, at:**

**Virginia Department of Veterans Services  
P. O. Box 6129  
Roanoke, Virginia 24017  
(540) 857-6423 (Voice)  
(540) 857-6420 (Fax)  
[foia@dvs.virginia.gov](mailto:foia@dvs.virginia.gov)**

**The Freedom of Information Advisory Council also is available to answer any questions you may have about FOIA. The Council may be contacted by e-mail at [foiacouncil@leg.state.va.us](mailto:foiacouncil@leg.state.va.us), or by phone at (804) 225-3056 or (866) 448-4100 (toll-free).**

### **Responsibilities of DVS in Responding to Your Request**

- A. DVS must respond to your request within five working days of receiving it. "Day One" is considered the day after your request is received. The five-day period does not include weekends or holidays.
- B. The reason behind your request for public records from DVS is irrelevant, and you do not have to state why you want the records before DVS responds to your request. FOIA does, however, allow DVS to ask you to provide your name and legal address.
- C. FOIA requires that DVS make one of the following responses to your request within the five-day time period:
1. DVS provides you with the records that you have requested in their entirety.
  2. DVS withholds all of the records that you have requested, because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, DVS must send you a response in writing. That writing must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows us to withhold the records.
  3. DVS provides some of the records that you have requested, but withholds other records. DVS cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, DVS may redact the portion of the record that may be withheld, and must provide you with the remainder of the record. DVS must provide you with a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.

4. DVS informs you in writing that the requested records cannot be found or do not exist (DVS does not have the records you want). If DVS knows that another public body may have the requested records, DVS must state this in the request and include contact information for the other public body in its response to you.
  5. If it is practically impossible for DVS to respond to your request within the five-day period, DVS must state this in writing, explaining the conditions that make the response impossible. This will allow DVS seven additional working days to respond to your request, giving us a total of 12 working days to respond to your request.
- D. If you make a request for a very large number of records, and DVS believes that it cannot provide the records to you within 12 working days without disrupting its other organizational responsibilities, DVS may petition the court for additional time to respond to your request. However, FOIA requires that DVS make a reasonable effort to reach an agreement with you concerning the production of the records before it goes to court to ask for more time.

## **Costs**

- A. You may have to pay for the records that you request from DVS. FOIA allows DVS to charge for the actual costs of responding to FOIA requests. This would include items like staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. It cannot include general overhead costs.
- B. If the total charge is in an amount of \$50 or less, the requestor will not be charged. If DVS estimates that it will cost \$200 or more to respond to your request, DVS may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The five days that DVS has to respond to your request does not include the time between when DVS asks for a deposit and when you respond.
- C. You may request that DVS estimate in advance the charges for supplying the records that you have requested. This will allow you to know about any costs in advance, or give you the opportunity to modify your request in an attempt to lower the estimated costs.
- D. If you owe DVS money from a previous FOIA request that has remained unpaid for more than 30 days, DVS may require payment of the past-due bill before it will respond to your new FOIA request.

## **Commonly Used Exemptions**

State law allows public bodies to withhold certain records from public disclosure. DVS commonly withholds records subject to the following exemptions:

- A. Personnel records (Va. Code § 2.2-3705.1(1)).

- B. Records subject to attorney-client privilege (Va. Code § 2.2-3705.1 (2)); or attorney work product (Va. Code § 2.2-3705.1 (3)).
- C. Vendor proprietary information (Va. Code § 2.2-3705.1 (6)).
- D. Records relating to the negotiation and award of a contract, prior to a contract being awarded (Va. Code § 2.2-3705.1 (12)).